

REMARKS/ARGUMENTS

Claims 1-4, 8-9, and 11-31 remain in this application. Claims 1, 8-9, 19-22, and 26 have been amended and claims 5-7 and 10 have been cancelled without prejudice. Applicants reserve the right to pursue such amended and cancelled subject matter in subsequent continuation applications. Support for the amendments to claims 1 and 26 can be found throughout the specification and claims (e.g., original claims 5 and 8). Accordingly, no issues of new matter are believed to be raised by the above amendments to the claims.

Rejection Under 35 USC 102

Claims 1-3, 5, 6, 19, 23, and 24 were rejected under 35 USC 102 as being anticipated by US Patent No. 6,126,969 (the '969 Patent). See Pages 2-3 of the Office Action. According to the Office Action,

“the '969 patent teaches a dosage for comprising an immediate release portion and an extended releasing portion (abstract). The dosage form comprises sweeteners and other excipients The extended release portion comprises coated core particles where the coating comprises an enteric polymer. The active agents include various well-known drugs including acetaminophen.”

See Page 2 of the Office Action.

As discussed above, independent claims 1 and 26 have been amended to now recite wherein “said particles in said second portion are comprised of a core that is substantially covered by a coating thereon, and said coating is comprised of a controlled release composition comprising an enteric polymer.” Shah et al. fails to disclose, or suggest, such a pharmaceutical dosage form comprising two portions, including the second portion of particles as recited in the pending claims. For example, the specific polymer (Eudagrit NE30D) recited in in col. 3, lines 45-48 of Shah et al. is not an enteric polymer.

Accordingly, Applicants respectfully request that this rejection be withdrawn.

Rejections Under 35 USC 103

Claims 1, 4, 7-18, 20-22 and 25-31 were rejected under 35 USC 103(a) as being unpatentable over the '969 Patent in view of US Patent No. 5,637,320 (the '320 Patent). See Pages 3-4 of the Office Action. According to the Office Action,

“The '969 Patent discloses a dosage form comprising both an immediate release and an extended release portion. The extended release portion comprises a coating of enteric polymers, and is suggestive of a combination of polymers, but is silent to the specific polymer combinations and ratios of the instant claims. These combinations and ratios however are well within the level of skill in the art to obtain given the suggestion of the art, as shown in the '320 patent.”

See Page 3 of the Office Action.

As discussed above, Shah et al. fails to disclose, or suggest, such a pharmaceutical dosage form comprising such particles as recited in the pending claims. The '320 Patent similarly fails to disclose or suggest such pharmaceutical dosage forms.

Accordingly, Applicants assert that the presently claimed invention would not have been obvious to a person of ordinary skill in the art at the time of the claims invention was made in light of these references. Thus, Applicants respectfully request that this rejection under 35 USC 103(a) be withdrawn.

Conclusion

For the foregoing reasons, the present application is in condition for allowance. Accordingly, favorable reconsideration of the amended claims in light of the above remarks and an early Notice of Allowance are courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned Attorney at the below-listed number.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/MCP5015/WEM.

Respectfully submitted,

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